

***United States Court of Appeals
for the Second Circuit***



APPENDIX

To be Argued by
JOSEPH I. STONE

77-1375

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Docket No. 77-1375

UNITED STATES OF AMERICA,
Appellee,

-v-

NICHOLAS PANTAZ,
Appellant.

On Appeal from the United States District Court
For the Southern District of New York

APPENDIX FOR APPELLANT NICHOLAS PANTAZ



JOSEPH I. STONE
Attorney for Appellant
277 Broadway
New York, New York 10007

TO: ROBERT B. FISKE, ESQ.
United States Attorney
Southern District of New York
One St. Andrew's Plaza
New York, New York 10007

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AL:bj

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA

-v-

NICHOLAS PANTAZ,
a/k/a Nicholas Pantazopoulos,
GEORGE FORD,
a/k/a "Whitey",
LAURIE NICOSIA and
HANS HARTUNG,

Defendants.

:
: INDICTMENT

: S 77 Cr. 458 (EW)

:

:

:

-----X

The Grand Jury charges:

1. From on or about the 1st day of January, 1977 and continuously thereafter up to and including the date of the filing of this indictment, in the Southern District of New York, NICHOLAS PANTAZ, a/k/a Nicholas Pantazopoulos, GEORGE FORD, a/k/a "Whitey", LAURIE NICOSIA, and HANS HARTUNG, the defendants and Carl Argilar, a/k/a "Carlie", not named as a defendant herein. and others to the Grand Jury unknown. unlawfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Section 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

2. It was part of said conspiracy that the said defendants unlawfully, intentionally and knowingly would distribute and possess with intent to distribute Schedule II narcotic drug controlled substances the exact amount thereof being to the Grand Jury unknown in violation of Section 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

OVERT ACTS

In pursuance of the said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York:

1. On or about April 7, 1977, LAURIE NICOSIA, the defendant, had a conversation with another person in the vicinity of 11th Avenue and 43 Street, New York, New York.

2. On or about April 7, 1977, LAURIE NICOSIA, the defendant, delivered approximately 13.71 grams of methamphetamine to an undercover agent in the vicinity of 11th Avenue and 43rd Street, New York, New York.

3. On or about April 12, 1977, LAURIE NICOSIA and HANS HARTUNG, the defendants, met with an undercover agent in the vicinity of Randall Avenue and East Tremont Avenue, Bronx, New York.

4. On or about April 12, 1977, LAURIE NICOSIA and GEORGE FORD, a/k/a "Whitey", the defendants, met in the vicinity of 530 Calhoun Avenue, Bronx, New York.

5. On or about April 12, 1977, LAURIE NICOSIA, the defendant, delivered approximately 109.87 grams of methamphetamine to an undercover agent in the vicinity of Calhoun and Dewey Avenues, Bronx, New York.

6. On or about April 20, 1977, LAURIE NICOSIA, the defendant, had a telephone conversation with an undercover agent concerning the sale of approximately 20 ounces of methamphetamine for \$34,500. 2

AL:art

7. On or about April 22, 1977, NICHOLAS PANTAZ, a/k/a Nicholas Pantazopoulos, LAURIE NICOSIA and HANS HARTUNG, the defendants, met in a blue Datsun truck in the vicinity of Randall and East Tremont Avenues, Bronx, New York.

8. On or about April 22, 1977, LAURIE NICOSIA, the defendant, delivered approximately 223.58 grams of methamphetamine in the vicinity of Randall and East Tremont Avenues, Bronx, New York.

9. On or about April 22, 1977, NICHOLAS PANTAZ, a/k/a Nicholas Pantazopoulos and GEORGE FORD, a/k/a "Whitey", the defendants possessed approximately 407.92 grams of methamphetamine in the vicinity of 530 Calhoun Avenue, Bronx, New York.

(Title 21, United States Code, Section 846.)

AL:art

COUNT TWO

The Grand Jury further charges:

On or about the 7th day of April, 1977, in the Southern District of New York, LAURIE NICOSIA and HANS HARTUNG, the defendants, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II controlled substance, to wit, approximately 13.71 grams of methamphetamine hydrochloride.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(B).)

COUNT THREE

The Grand Jury further charges:

On or about the 12th day of April, 1977 in the Southern District of New York, NICHOLAS PANTAZ, a/k/a Nicholas Pantazopoulos, GEORGE FORD, a/k/a "Whitey", LAURIE NICOSIA and HANS HARTUNG, the defendants, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II controlled substance, to wit, approximately 109.87 grams of methamphetamine hydrochloride.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(B).)

COUNT FOUR

The Grand Jury further charges:

On or about the 22nd day of April, 1977 in the Southern District of New York, NICHOLAS PANTAZ, a/k/a Nicholas Pantazopoulos, GEORGE FORD, a/k/a "Whitey", LAURIE NICOSIA and HANS HARTUNG, the defendants, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II controlled substance, to wit, approximately 223.58 grams of methamphetamine hydrochloride.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(B).)

COUNT FIVE

The Grand Jury further charges:

On or about the 22nd day of April, 1977 in the Southern District of New York, NICHOLAS PANTAZ, a/k/a Nicholas Pantazopoulos, GEORGE FORD, a/k/a "Whitey", LAURIE NICOSIA and HANS HARTUNG, the defendants, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II controlled substance, to wit, approximately 697.92 grams of methamphetamine hydrochloride.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(B).)

Foreman

ROBERT B. FISKE, JR.
United States Attorney

Excerpts from Testimony

J O S E P H C . S U L L I V A N, called as a witness,
having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LEVINE:
(69R)

Q Where were the other two people?

A At that time the other two people were in the
blue Datsun truck.

Q Who were they?

A It was Hans Hartung and another male individual.

Q Do you see him here in the courtroom?

A Yes, sir, I do.

Q Please point him out.
(70R)

A It's the gentleman with the gray suit and the
mustache, second from the left.

MR. LEVINE: Let the record reflect that the
witness has identified the defendant, Nicolas Pantaz.

* * *

A N T H O N Y P E T R U C C I, called as a witness by
the government, being first duly sworn, testified
as follows:

DIRECT EXAMINATION BY MR. LEVINE:
(115R)

Q Directing your attention to April 22, 1977, were
you on duty that day?

A Yes, I was.

Q What was your assignment at that time?

A I was acting in an undercover capacity with another agent.

Q What was his name?

A Joseph Sullivan.

Q Approximately what time did you and Agent Sullivan assume your position?

A At approximately 11 a.m.

Q Where did you and Agent Sullivan go?

A East Tremont and Randall Streets in the Bronx.

Q How did you get there?

A By vehicle.

(116R)

Q After a short while, did someone come?

A That's correct.

Q Approximately how long?

A Approximately ten minutes.

Q Who arrived?

A A male and female in a blue colored Datsun.

Q And do you see the male in the courtroom here today?

A Yes, I do.

Q Could you please point him out?

A The gentleman sitting at the defense table with

the brown sweater and the light colored shirt on.

MR. LEVINE: May the record reflect the witness has identified the defendant Hans Hartung.

Q Who came with him?

A A female.

Q Was she introduced to you?

A Yes, she was.

Q What was she introduced to you as?

A Laurie.

* * *

(118R)

Q As a result of what he said, what happened?

A Agent Sullivan showed her and Hans the money.

Q How much money?

A \$34,500.

Q Then what happened?

A Agent Sullivan got out of the car and put the money in the trunk, came back to the car. Laurie said she would have to go see her people because we -- I told her that we would not front any of the money under any circumstances.

Q Then what happened?

A Then both her and Mr. Hartung got out into the blue Datsun and drove away.

Q How long were they away?

A Approximately ten, 15 minutes.

Q Did they return?

A Yes, they did.

Q What did you observe?

A They returned again in the blue Datsun and now there was three individuals in the Datsun.

Q And do you see the third individual here in this courtroom today?

A Yes, I do.
(119R)

THE COURT: Let him step down and identify him.

I am not sure myself which one he pointed to.

A The gentleman seated second from the right.

THE COURT: Let the record indicate which defendant.

MR. LEVINE: The defendant Pantaz.

* * *

Q Did she say anything else at that time?
(120R)

A No. I gave Agent Sullivan the keys to the trunk of the car where the money was.

Q Showing you what has been marked Government Exhibit 5 for identification, can you identify it?

A Yes.

Q What is it?

A It's the package that was given to us by Laurie.

Q How can you identify it?

A It bears my name.

MR. LEVINE: The government offers Exxibit 5.

(Government Exhibit 5 received in evidence.)

Q Then what was said?

MR. STONE: I take it this is offered subject
to motion.

THE COURT: Yes.

* * *

W I L L I A M M c M U L L A N, called as a witness,

having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LEVINE:

(151R)

Q Mr. McMullan, showing you what has been marked
Government Exhibit 8 for identification, can you identify
it?

A Yes, sir.

Q What is it?

A It is an Eastern Airline ticket stub dated
April 21, 1977.

Q How can you identify it?

A By my initials and the date 4/22/77.

Q Where did you obtain it?

A Took it from the right rear pocket of the
defendant Pantaz.

R O B E R T K. S E A R S, called as a witness, having
been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LEVINE:
(186R)

Q Some time thereafter were you advised that a
search warrant had been obtained for the premises 530
Calhoun Avenue in the Bronx?

(187R)

A Yes, sir, that's correct.

* * *

Q Showing you what has been marked Government
Exhibit 26, 26-A, 27 and 28, would you please take each
exhibit at a time and explain if you can identify it.

A Yes, sir, I can on 26.

Q What is it?

A 26 is a valise which I found in the living room
of 530 Calhoun behind the TV set.

Q How can you identify it?

A It appears to be the same one that I found
behind the TV. Fits the same description.

Q And Government Exhibit 2-A?

A Yes, sir, this is an airlines ticket which I
found inside this briefcase.

* * *

(272R)

THE COURT: The respective motions made by the
defendants under the conspiracy counts are denied and

I want to go over my notes a bit more in detail and
I'll announce my ruling with respect to the motions
made under the substantive counts.

COPY RECEIVED
ROBERT B. FISKE JR.
OCT 14 1977
U.S. ATTORNEY
SO. DIST. OF N.M.